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DEDICATION TO JUDGE OWENS

PAUL J. GODA, S.J., HOMILY AT FUNERAL OF JUDGE EDWIN OWENS, AUGUST 9, 1988

I welcome you to this shared prayer of ours in memory of and in hope for Judge—Dean—Edwin Owens. I am honored to have been asked to share this prayer with you by Judge Hanifin, since I do not go back as far as Judge Owens' 91 years or his time at the Law School. He was born in 1897, one of ten children of a Boston policeman. That was the start of his journey in history.

His birth, like all our births, was a share in the Providence of God. Although the Gospel reading I selected is not usual,¹ I chose it to make a point. I received Judge Hanifin's call about Judge Owens' condition last Wednesday, August 3. Just after the call, I began to reflect in annual retreat about the Nativity. The translator of St. Ignatius transcribes Ignatius' words, "I marvel at the march of history, here begun, the business of that journey, its downright inconvenience and, no less, the reasons for it. . . ."

The Feast of the Nativity has been trivialized by its use at Christmas, by Christians themselves in emphasizing the baby Jesus, by society in commercializing the event. The feast is not a feast of the baby Jesus, but rather a feast which is meant to increase our sense of wonder at life. It is a feast of the coming of the Lord. It is about birth and rebirth in the march of history.

We share in that march of history, as did Judge Owens. Each of us has a history that exists on two levels: one formal, the other personal. Judge Hanifin and his sister put together some information for me describing the formal side of Judge Owens' life. I am cheating a bit since Judge Owens had asked that we keep his memorialization simple, without a eulogy, without a wake, without a reception, in order to give what would have been spent there for student

1. *Luke 2:1-14* (describing the birth of Jesus).

scholarships.

Judge Owens graduated from Holy Cross College in 1918 and served as a Second Lieutenant in the infantry during World War I. He graduated from Harvard Law School in 1922, and spent the next 11 years practicing law in Boston where he taught part-time at Boston College Law School.

Fr. Gianera, about whom I shall say more later, came seeking him to be Dean of the School of Law here in 1933. During his twenty years as Dean, Judge Owens greatly increased the quality of the school. He lectured at other law schools and served on numerous boards and commissions, including the U.S. Alien Enemy Hearing Board of Northern California during World War II.

In 1953, he was appointed to the Santa Clara County Superior Court bench, where he remained until his retirement in 1966. He continued to teach at the Law School into the mid-60's. During his judicial service, he was active in developing pre-trial procedures and he presided for several years in the appellate division. He was an intellectual giant on the bench here and declined an appointment to the California Court of Appeal.

He contributed to the community by serving as a director for the National Council of Christians and Jews, Catholic Charities of Santa Clara County and John XXIII Senior Center. He received many awards over the years, including the Thomas More award from the University of San Francisco, the City of San Jose's Distinguished Citizen's Award, the Santa Clara County Bar Association Award and several honors from this University.

Santa Clara University established the Owens Club, a group of law school alumni who support the Law School, in his honor. The "Owens Award" is given annually to distinguished graduates of the Law School.

But more important than all of this is the personal side of his life. I got some stories from Judge Hanifin who was like a son to Judge Owens. I also got some stories from others that I can't tell here about his quick wit. Judge Owens was a Judge, Dean, man of the law and a teacher. He exemplified what is stated in the first reading from the book of Deuteronomy,² "The law is your life."

I grant that what I am suggesting is broader than the Torah. And the issues we face in a modern pluralistic society must deal with the problems of separation of church and state. But Judge Owens' ideals faced up to the issues of the relationship of law and morals,

2. *Deuteronomy* 26:16-19, 32:46-47.

with the ideal of law as the foundation for community. That was Judge Owens' deep belief and the foundation for his work.

For us here at Santa Clara, he carried out that belief by coming to a foundering Law School. He was brought here by Fr. Gianera who promised him \$5,000 a year and paid him \$4,000. Dean Owens stayed. What he faced when he got here was a Bar Exam which had just been mandated and upon implementation, led to a 10% pass rate for Santa Clara students. So, Fr. Gianera sought him out. Mr. Al Ruffo, who prayed the first reading for us, was in Dean Owens' first freshman class of 5 in 1933. 4 flunked out. One took the Bar for a 100% pass rate. As Al likes to say, he was at both the top and the bottom of his class.

Judge Owens combined compassion and high standards, with a great deal of personal help and counselling. The Law School was much more easily personal because it was smaller. Although the Law School has grown greatly in size, it still thinks of itself as small because of the tradition which he began: accessibility of teachers and personal counselling. I can vividly remember the Faculty deliberately trying to keep up that tradition during our growth years under Dean Alexander.

Judge Owens had a sense of humor, too, lurking under that homburg and New England overcoat. He had to because no one could be around his beloved wife, Mabel, without developing a sense of humor. He seemed shy, but, again, that was compared to Mabel, who most certainly was not shy. A story is told about Ben Swig, who was a close friend of Judge Owens, and Mabel. She was seated next to him at some function and asked him why he hadn't donated to something or other for the Law School. Mr. Swig promptly took out his checkbook and wrote a check! God knows, we could use Mr. Swig and Mabel right now!

Judge Owens was recognized as the possessor of a great intellect and a genius on the bench. He effected me, though, in a reverse kind of way, although I had not really known him. I was told that he taught offer, acceptance and consideration and that was all. I am sure you remember legal benefit to the promisor and legal detriment to the promisee. Finally, he put together an 8 page summary which was handed down to generations of students so that they could know the rest of the course. I decided not to follow his example in that.

But I do hope to follow the example of his personal journey. In the second reading today,³ St. Paul says the life and death of each of

3. *Romans* 14:7-12.

us has its influence on others. Despite Fr. Gianera's parsimony, despite the problems each of us has to face, he stayed so as to bring his warmth and humor and faith to us. One of his students, Michael di Leonardo, had this to say about Judge Owens when he accepted the Owens Award:

At sometime during our lives most of us need a personal hero—someone who exemplifies all that a man can be and should aspire to. Speaking as one of many, Dean Owens set a standard to which we might all aspire in terms of incisive legal scholarship, empathy with and compassion for his fellow human beings, and, most of all, for his generosity of heart and spirit.

I personally count his friendship among the blessings of my life. I know that I am joined in these thoughts and feelings by all who know or who have known him as teacher, as Dean, as Judge and as a man.

That tribute was a tribute to the march of history in which Judge Owens mirrored the Lord's life within our own history. This summer, I was in a parish in Anchorage, Alaska. About 25 miles north of Anchorage is a glacial lake. One day, I walked 17 miles to get to the end of the lake and back, pondering the incredible time that it took to carve out that lake and forge all that beauty. The last glaciation was 2 ½ million years ago—4,000 feet of ice carved out that splendid valley in such a time.

We have a much shorter time in history for a larger result. Judge Owens carved out his life in wonder, humor and faith, in the short time allotted to him, to place his life before the Lord forever.

JUDGE TIMOTHY J. HANIFIN

When I was asked to write this article, a request was made that, since Dean Owen's biography had been very well covered by the press as well as in Father Goda's eloquent eulogy, my comments should be directed to my own personal relationship with the Dean. Therefore, please forgive the frequent use of the pronoun "I" as I relate a few simple experiences in my long friendship with Judge Owens (as he was known to me) and his beloved wife, Mabel. These few thoughts I have written provide only a small glimpse of the blessed, compassionate and humble life of a great man.

It was a terrible fall in April of 1987, his head striking the concrete below his walker, rendering him unconscious. His long-time physician, one of many, had advised me in the hospital that he would no longer be able to return to his retirement apartment and, at best, would have to remain in a convalescent hospital after his release.

After the necessary legal papers had been signed, I was sitting at his desk, going over its voluminous contents, inasmuch as all of his possessions, finances, etc., needed immediate attention. It was then that I discovered in the rear of a lower drawer a weathered copy of the California State Bar Journal of March, 1948 which had printed an address made by the Dean upon the arrival of the Freedom Train in San Jose. It was a moving speech, given before members of the Supreme Court, Legislators, the Board of Governors of the State Bar and thousands of others. It was entitled simply, "Our Democracy."

A few papers below, I found another speech, "The American Philosophy of Government," delivered in January of 1952 to the San Francisco Rotary Club. It was equally intellectual and stirring, to the extent that the Rotary Club had it printed, bound and circulated to its clubs throughout the state.

I was amazed that Judge Owens had never mentioned in all our conversations these prominent speeches, or the numerous awards he had received from various organizations throughout the years. This humble man had indeed deservedly received much public recogni-

tion in his lifetime, but his fondest memories were of the simple things he enjoyed in life.

I began to look back and reminisce about the many facets of Judge Owens' life. Who, of his many students, can forget the genius of his semi-Socratic teaching; the oft-used horse "Dobbin" and the standard comment, "A 'C' is a gentleman's grade"? I venture to say that few, if any, who passed his contracts course at Santa Clara ever failed the contracts question in the Bar Examination.

As a Senior student, I was privileged to serve the Judge as his research clerk. This was a yearly selection made by him, paying the grand sum of seventy dollars a month. However, my true reward was that I learned more about the practical aspects of the practice of law that school year than ever before. Years later, when I reminded the Judge that he had chosen me for that position between such prominent men as Justice Edward Panelli, of the Supreme Court of California and the Honorable John Vasconcellos, the Chairman of the Ways and Means Committee of the California State Assembly who had also served as his clerks, the Judge jokingly replied, "Well, kid, we are all mortal and subject to one mistake!"

After I had practiced as a trial lawyer for the fine firm of Popelka, et al., for several years, I decided to leave what had grown into a large insurance defense office to open my own practice. This obviously meant the sacrifice of a substantial income and an unknown degree of risk. Initially, my office was a very humble one, but, thank God, my practice developed very rapidly.

One day I received a call from Judge Owens asking me if I would have lunch with him. At lunch he advised me that, since his retirement, he wanted to keep his intellect active and offered to serve "Of Counsel" to me without any compensation. Obviously, I was embarrassed, shocked and frankly "tongue-tied." Here was a man whose reputation was national, who had received numerous awards, honorary degrees, served on many charitable boards of directors, who was an institution in himself, and was offering his expertise to *me*. I insisted on payment of some salary to him—his reply: "Not now." My library was inadequate and his quarters were cramped, but he dismissed these matters. Later, he agreed to a small salary for the hours of research he performed.

Each Monday, his wife Mabel would drive him to the office where I would present my legal problems to him. On Monday afternoons, when I wasn't in trial I would drive him back to his Hilmar Street home in Santa Clara, enjoying his scholarly conversation, interspersed with his humorous reminiscences and Irish jokes along the

way. On Friday, he would return with a complete, insightful resume of the legal answers to cases we had discussed the previous Monday.

Later, I learned from Mabel that he had been offered the position of "Of Counsel" by three very prestigious law firms with the promise of a very lucrative salary, which he had graciously declined. When I asked him why he had offered his services to me instead, his response was, "They didn't *need* me, kid, you did didn't you?"

This is yet another example of those things he valued in life—serving where he was most needed. To this day, his name remains "Of Counsel" on the door of my previous law firm, Van Loucks and Hanley, and will remain there.

Of all his numerous board memberships, I think his most favorite was Chairman of the Board of the Pope John XXIII Senior Citizen's Center of old downtown San Jose. On one occasion, when he invited me to lunch at the Center, I marvelled at the reception he was given by the Seniors. He was addressed as "Judge," "Dean," and "Our Man," and people flocked around him. A few members, with respect, would ask, "Hey Eddie, what the hell are we going to do about . . . ?" He loved these marvelous people, and I was deeply touched.

The pressing problem at the Center this day was what to do about a newly discovered ninety-two year old card "hustler" who had managed to extract a stack of relatively meaningless chips from some of the oldsters. The man was allowed to stay only if he taught the others his card playing expertise without further "gambling." I think Judge Owens enjoyed helping to solve these minor problems as much as the very serious cases he had decided on the Superior Court Bench.

I regret that I cannot include all the names of the many Judges and other prominent and common people Dean Owens taught or knew throughout the years and all of their stories, of which there are many. Space prohibits recounting them.

Untold in all these remarks are the numerous times others had told me of the educational, financial and emotional help he had given students, former students, and struggling young attorneys, many of whom are prominent and successful today because of that support.

His interest in and support for the Santa Clara Law School never waned through the years. The University always had a special place in his heart. The only time I ever saw him cry, throughout his many sufferings, were tears of joy when I delivered to him, near the end of his days, the last of numerous awards from the University and the Law School students, on the occasion of his ninetieth birth-

day. Through his tears he simply said, "Thank God the kids have not forgotten me."

Even though I could have given hundreds of examples of his kindness and contributions to his friends, organizations, church, community, country, Santa Clara University, etc., such would not be in keeping with this humble and compassionate man's wishes. His satisfaction came not from prestige or public recognition, though it was greatly appreciated, but from doing God's work in his own quiet way.

Now, I guess, it is time to lay away the Homburg, the walking stick, the formal vests with the classy piping, and (yes, Judge McInerney) the ever-present cigar.

It has been difficult for all of us to say good-bye to him, but the many gifts and inspiration Dean Owens gave to all he touched will remain with us forever.